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FISCAL IMPACT STATEMENT

LS 6151

BILL NUMBER: SB 88

NOTE PREPARED: Feb 24, 2014

BILL AMENDED: Feb 24, 2014

SUBJECT: Mental Health Witness in Criminal Cases.

FIRST AUTHOR: Sen. Alting

FIRST SPONSOR: Rep. Bacon

BILL STATUS: CR Adopted - 2nd House

**FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- A. *Insanity Hearings Not Involving a Homicide* – It provides that when notice of an insanity defense is filed in a case in which the defendant is not charged with a homicide offense, the court shall appoint two or three competent disinterested: (1) psychiatrists; (2) psychologists endorsed by the State Psychology Board as health service providers in psychology; or (3) physicians; who have expertise in determining insanity, at least one of whom must be a psychiatrist or psychologist.
- B. *Insanity Hearings Involving a Homicide* – It provides that when notice of an insanity defense is filed in a case in which the defendant is charged with a homicide offense, the court shall appoint two or three competent disinterested: (1) psychiatrists; (2) psychologists endorsed by the State Psychology Board as health service providers in psychology; or (3) physicians; who have expertise in determining insanity, at least one of whom must be a psychiatrist and at least one of whom must be a psychologist.

Effective Date: July 1, 2014.

Explanation of State Expenditures: (Revised) The state pays for 50% of the expert witness fees when a death penalty is sought and 40% for all other felonies. Under current law, a psychiatrist must be used in any criminal cases involving an insanity defense. As proposed, a board-endorsed psychologist may be substituted for a psychiatrist when a criminal case does not involve a homicide.

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) Depending on how often criminal defendants choose to

plead not guilty for reason of insanity, this bill could reduce the time required to evaluate a defendant in criminal cases not involving a homicide. More timely evaluations and trials could help to reduce the jail population awaiting trial. Courts report that they are experiencing trouble securing psychiatrists to evaluate criminal defendants who choose to plead insanity. As a result, criminal trials are delayed as courts must wait to be able to schedule a psychiatrist to examine the defendant. Consequently, criminal defendants are often detained in local jails until a psychiatrist is available.

Of the 44 counties that use the Odyssey Case Management System, there have been at least 37 criminal or juvenile cases in which a notice of insanity defense has been filed between 2007 and 2012. The following two tables show the types of cases and the counties in which an insanity defense has been filed between CY 2007 and 2012.

Counties In which an Insanity Defense Has been filed							
County	2007	2008	2009	2010	2011	2012	Total
Clark					1		1
Elkhart						1	1
Floyd					2	2	4
Greene					1		1
Hamilton			2	1			3
Monroe	1	5	4	4	7	3	24
Posey						3	3
Total	1	5	6	5	11	9	37

As an illustration, of these 37 criminal cases shown below, 33, which under current law would require a psychiatrist as an expert witness, would be able to use a psychologist.

Types of Cases In Which An Insanity Defense Has Been Filed							
Type of Crime	2007	2008	2009	2010	2011	2012	Total
Misdemeanor			3		1	1	5
Class A Felony		1	2			1	4
Class B Felony	1	2		3	2	2	10
Class C Felony			1	1	2	1	5
Class D Felony					4	4	8
Juvenile Delinquency				1			1
Murder		2			2		4
Total	1	5	6	5	11	9	37

The state reimburses either 50% for cases involving the death penalty or life without parole and 40% for other felonies. The additional funds would come from the court through the court services budget. If an expert with expertise in determining insanity receives higher fees than other experts, costs could increase.

Explanation of Local Revenues:

State Agencies Affected: State Court Administrator.

Local Agencies Affected: Trial courts.

Information Sources: Thomas Felts, Allen Circuit Court; Steven Ross, PsyD, HSPP.; Indiana Supreme Court Odyssey Case Management System.

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